

SUPPLEMENTAL
TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1944

No. 205

IN RE CLYDE WILSON SUMMERS, PETITIONER

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE
OF ILLINOIS

PETITION FOR CERTIORARI FILED JUNE 29, 1944.

CERTIORARI GRANTED DECEMBER 11, 1944.

SUPREME COURT OF THE UNITED STATES

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[fol. a]

IN SUPREME COURT OF ILLINOIS, SPRINGFIELD

March 22, 1944.

Mr. Francis Heisler, Attorney at Law, 77 West Washington Street, Suite 1324, Chicago 2, Illinois.

In re: Clyde Wilson Summers

DEAR SIR:

Your petition on behalf of Clyde Wilson Summers to reconsider the prior action of the Court sustaining the report of the Committee on Character and Fitness for the Third Appellate Court District, has had the consideration of the Court.

I am directed to advise you that the Court declines to further consider its former action in this matter.

Yours very truly, June C. Smith, Chief Justice.
JCS:K.

[fol. b] **IN SUPREME COURT OF ILLINOIS****IN RE CLYDE WILSON SUMMERS, Petitioner,****STIPULATION AS TO SUPPLEMENTAL RECORD**

It is hereby stipulated on behalf of the petitioner in the above entitled cause, by his counsel, and the Chief Justice and Associate Justices of the Supreme Court of Illinois, by George F. Barrett, Attorney General of the State of Illinois, that the Clerk of the Supreme Court of Illinois shall prepare a supplemental record in the above entitled cause and that in such record he shall include the following:

1. The original of the transcript of the proceedings In the Matter of the Application of Clyde Wilson Summers for admission to the Bar of Illinois before the Committee on Character and Fitness for the Third Appellate Court District.

2. A photostat of the letter under date of March 22, 1944, from June C. Smith, Chief Justice of the Supreme Court of Illinois, to Francis Heisler, counsel for

the said Clyde Wilson Summers, the body of which letter reads as follows:

"Your petition on behalf of Clyde Wilson Summers to reconsider the prior action of the Court sustaining the report of the Committee on Character and Fitness for the Third Appellate Court District, has had the consideration of the Court.

[fol. c] "I am directed to advise you that the Court declines to further consider its former action in this matter."

3. A certificate that the foregoing transcript is the original and that the photostat is a true and correct copy of a document of the Supreme Court of Illinois.

Francis Hejsler, Counsel for Petitioner, Clyde Wilson Summers. George F. Barrett, Attorney General of the State of Illinois, Attorney for the Chief Justice and Associate Justices of the Supreme Court of Illinois.

[fol. 1] In the Law Offices of Vail, Mills & Armstrong
Eleventh Floor, Citizens' Building,
Decatur, Illinois

Application of Clyde Wilson Summers for Admission to the Bar

Hearing at 10:30 a. m. Friday, November 27, 1942, before the Committee on Character and Fitness for Third Appellate Court District on the application of Clyde Wilson Summers for admission to the Bar.

Members of the Committee Present: Mr. Walter Belatti, Jacksonville, Ill.; Mr. Horace B. Garman, Decatur, Illinois; Mr. Robert P. Vail, Decatur, Illinois; Benj. F. Cassidy, Room 201, Court House, Decatur, Illinois, Official Circuit Court Reporter.

Clyde Wilson Summers, called a witness on his own behalf, having been first duly sworn, was examined in chief by Mr. Vail, and testified as follows:

Q. State your name.

A. Clyde Summers—Clyde Wilson Summers,

Q. Are you the same person who has filed a question-aire before the Character and Fitness Committee for the Third Appellate Court District of Illinois in connection with your application for admission to the bar?

[fol. 2] A. Yes, sir.

Q. And after filing that question-aire did you appear before any member of the committee?

A. Yes, sir. Mr. Belatti.

Q. Mr. Belatti?

A. Yes, sir.

Mr. Vail: Well, now, Mr. Belatti, I think you can take the examination in charge.

Examination.

By Mr. Belatti:

Q. What is your age?

A. I was twenty-four last week.

Q. Where were you born?

A. Grass Range, Montana.

Q. How many years did you live in Montana?

A. About three and one-half years.

Q. And after that did you move to Illinois?

A. No, sir. We moved to Tecumseh, Nebraska.

Q. How long have you lived in Illinois?

A. Since 1929.

Q. During all of that time or period have you lived in Scott County, Illinois?

A. Yes, sir.

Q. In the city of Winchester or adjacent thereto?

A. Two years I lived in Winchester and then the rest of the time on a farm about seven miles from Winchester.

Q. What college did you attend?

A. The University of Illinois.

Q. You took your law work there also?

[fol. 3] A. Yes, sir.

Q. Did you specialize in any other work besides law?

A. I have a Bachelor of Science in Accountancy before I went into the Law.

Q. What is your religious affiliation?

A. Methodist.

Q. Have you been connected with that Church all of your life?

A. As far as I can remember.

Q. And you have been active in that work?

A. Yes, sir.

Q. What special religious work did you do at the University of Illinois?

A. I worked in the Wesley Foundation. I was Chairman of Religious Education; Chairman of the Worship Committee; and Vice-President of the Council; President of the Council; and Student Assistant for the Minister. That is, in successive years.

Q. Did you do any preaching yourself? That is, actually conducting the services and preaching sermons?

A. Yes, sir. I led Worship Services. That was not preaching regularly—preaching regular sermons there, but I have preached a number of sermons other places, but none there.

Q. Did you largely work your way through college and law school?

A. Almost entirely. My Dad gave me about two hundred dollars altogether.

Q. What kind of work did you do to earn your money to have your education?

A. The first four years I worked meal jobs when I could [fol. 4] get them, and N. Y. A., working—washing windows and running elevator; the last three years in law school I worked one year in the University Accounting Office, two years in the University Accounting Office, and one year in Wesley Foundation.

Q. The last year was connected with the Wesley Foundation?

A. The last year, yes, sir.

Q. Are your Father and Mother both living?

A. No. My Mother has been dead since 1929.

Q. What kind of work did your Father do?

A. He was a farmer.

Q. Have you any Brothers?

A. One.

Q. He is in Military Service?

A. Yes, sir, he is. I guess he is a Captain now in the Coast Artillery, at Camp Wallace, Texas.

Q. You are not married?

A. No, sir.

Q. You have never been married?

A. No, sir.

Q. And you registered in the First Draft?

A. That is right.

Q. I believe and when you returned your questionnaire you in that connection stated that you were a conscientious objector to war?

A. Yes, sir.

Q. And have you maintained that position ever since?

A. Yes, sir.

Q. How did the Draft Board classify you in that regard?

A. They classified me as a conscientious objector at first [fol. 5] and then they decided since I was a student, they had to classify me as a student until the end of the year, and then they classified me as that until June, and then they put me back in as a conscientious objector. They never questioned me or anything. They classified me as that.

Q. Do you know what number that is?

A. Yes.

Q. The numbered classification?

A. 4-E.

Q. 4-E?

A. Yes, sir.

Q. In connection with that classification are you subject to a physical examination?

A. Yes, sir.

Q. Have you taken a physical examination?

A. I had a physical examination a year ago this Summer. I did not pass. Otherwise I would be in the camp now.

Q. Is that the same kind of physical examination that is given to those inducted into active service?

A. Yes, sir. It is supposed to be. As a matter of fact on the draft question, the local board would become the only board and the one board to put me in the service.

Q. In that connection you have not been called into any service?

A. That is right.

Q. Do you have any idea when you might be called?

A. I have no idea. If the conscientious objectors are called along with the others that are fit for limited services with the military forces, according to the schedule I should be called some time about February. I do not know whether they are calling the conscientious objectors fit for limited [fol. 6] service or not.

Q. Now, is conscientious objecting to war one of the fundamental principles of the Methodist Church with which you are affiliated?

A. The Methodist Church in its national conference said that they would uphold and support the conscientious objectors and also conscientious participants, so they are—you might say—supporting both sides. But it is recognized by the Church as a valid stand.

Q. However, from what you say, I gather that at least the Church has not taken the position that it is one of the fundamental tenets of the religion?

A. No, sir.

Q. That a person must not engage in combat activity?

A. That is right.

Q. And it is not in the same category as the Society of Friends or some other such world faith as a cardinal tenet?

A. No, sir. There are Quakers that are in the Military Service as well as Methodists.

Q. The disposition which you have taken in regard to the Military Service, the participation in War, your conclusion in that regard, did that result from your own independent reasoning or from your religious training?

A. It was from my reasoning through my religious training. I can't really separate the two. I did my own thinking and then I had a lot of things on the religious side too, but it was through the religious point of view.

Q. I gather that it is by no means the result of any family thinking?

A. No, sir. That is right.

[fol. 7] Q. Do you believe you have any constitutional right to refuse to serve in the Armed Forces?

A. The Constitution makes no provision for conscientious objectors. I think that the Illinois Constitution has some provision concerning militia about it.

Q. Don't you believe, Mr. Summers, it is the duty of the Federal Government to defend your life and property even by armed force, if necessary?

A. Will you state that question again, please? I want to be sure about it.

Q. Don't you believe it is the duty of a just government to defend your life and property even by armed force, if necessary?

A. Not military force at least. It is not its duty to do so. It is its duty to defend it, but not necessarily by military force.

Q. Isn't it only by the grace of Congress that you are afforded the right to claim an exemption or deferment or whatever it may be on the ground of your conscientious objection?

A. Yes, sir.

Q. Now, in spite of this great emergency Congress has protected you in that right?

A. But not because it has to.

Q. The Government protects you, an obscure citizen in the exercise of that right, doesn't it?

A. Yes, sir.

Q. Don't you think that kind of a Government is entitled to be defendant by force, if necessary, and isn't it worth defending?

[fol. 8] A. It is worth defending, but the question is whether the force is either a good defense or the best defense.

Q. Do you think that God would want the civilization of the United States to be overthrown and the Japanese or the Hitler ideas, because I won't call it "civilization", to be substituted therefor?

A. I think that would hurt God greatly. Also I think that our killing people hurts too.

Q. You do not think then that God would approve—no, you do think that God would approve of our failure to use the instruments he has given us to prevent that outcome, that is, the overthrow of our civilization by the Japanese or by Hitler?

A. What do you mean by the "instruments that he has given us"?

Q. Well, the ability to produce arms and to use them?

A. No. I do not think God desires that of them.

Q. Well, I say, you do think he would approve of our failure to use them?

A. No. He would not approve of our failure—wait a minute! Let me state it positively: He would approve of our failure to use them if we use the other means which we have available. He does not approve of anybody surrendering and giving in. It is solely what means which he approves.

Q. Well, perhaps we need to be enlightened on that point. What are the other means which may prevent that outcome other than the instrumentality of force?

A. Those are the means of non-violent resistance or non-cooperation, or using love to overcome the evil. Perhaps the best example in the world today is Ghandi.

[fol. 9] Q. I just want to get your point. I am not going to argue it.

A. Yes.

Q. I just wanted to know what they were.

A. Yes, sir.

Q. I did not know whether you mean that sort of thing or whether you thought there were some economic force that might operate, that is, psychical forces that might operate?

A. Yes. I think now we have to think about some economic changes and adjustments, however.

Q. Do you seriously believe that such means could prevent at least initially the overthrow of all that our civilization stands for?

A. Not the initial overthrow, but it would win' in the end.

Q. You believe in using no force, which might result in ultimate death, in order to protect the Government which accords the humblest citizen—to the humblest citizen his freedom and his rights of person and property?

A. I do not believe in any force that requires the taking of human lives.

Q. I say, that is what you believe?

A. Yes, sir.

Q: You do feel, however, that our national existence initially would be injured by the triumph of our enemies, do you not?

A. Yes, sir.

Q. You have no idea how many years, how long a period of time would be required to emerge from the darkness?

A. I do not know, but I believe it would be much quicker than the way we are doing.

[fol. 10] Q. You do realize that our liberties would be taken away in the event of that victory by our enemies?

A. Yes. They would.

Q. And have been taken away in Germany, Czechoslovakia and Poland?

A. Yes. They would.

Q. Especially the liberty of the Jews?

A. One can not be too sure they will not be taken away as it is.

Q. To what extent do you believe that our people would be enslaved?

A. To the extent that they allowed themselves to be enslaved.

Q. That is where we are getting now—to the border line, where I can not quite understand. How can they prevent themselves from being enslaved, except by the use of force?

A. By simply the refusal to follow the dictates of uncivilized forces. It seems to me that the enslavement of people comes in the enslavement of their spirit and willingness to put up with things like that, and not the kind of enslavement as we might think about, taking our liberties away. As long as men are spiritually right, they can never be the slaves of anyone.

Q. Don't you believe your very right to refuse to fight would be taken away?

A. I might suffer great consequences.

Q. Your right to do so would be taken away from you?

A. Yes. The legal right.

Q. Your legal right, yes. The only way you could refuse to fight would be to suffer the violence toward you, or the death they might impose upon you?

[fol. 10a] A. Yes, sir.

Q. And you realize that if everyone in the nation would have taken your position since Pearl Harbor, your rights and freedom would have been lost?

A. They would have been lost but they would come back.

Mr. Belatti: I wonder if you other gentlemen do not have some questions along that line for I at least do not want to encroach on your idea. You may ask about it or let you do your own questioning. I am willing to follow your suggestions. Do you wish to ask some questions or do you want me to?

Mr. Garman: Go ahead. I will ask the questions I want to ask.

Mr. Belatti: Yes, sir. You might go into the things you want to.

Q. In your association and such at the University of Illinois you doubtless met many acquaintances both in College and in the Law School?

A. Yes, sir.

Q. And quite a number of those men are fighting now in the armed forces?

A. Yes, sir. My best friends, probably in Africa.

Q. You do not believe your conscience would permit you to give your the privilege of fighting side by side with them?

A. They did not ask me that.

Q. It is not a question of what they would ask.

A. Maybe not strictly.

Q. It is a question of what your own conscience, emotions and feelings lead you to feel you ought to do?

[fol. 11] A. No, sir. My conscience does not feel I should do it.

Q. What would you do if they did speak and ask that of you?

A. I should continue in what I thought was right.

Mr. Belatti: Well, Mr. Chairman, I admit that my knowledge and even my thought along these lines has been rather perfunctory and inadequate. I am afraid that is about all I have to ask Mr. Summers.

Mr. Vail: All right. Let Mr. Garman ask him if he cares to.

Examination.

By Mr. Garman:

Q. You referred to your best friend being at War?

A. I think he may be in Africa.

Q. Who is that?

A. Harold Clark. He graduated in law a year before me. The last I heard of him he was in England.

Q. Now, you say that if your friends and associates who are in the Service were to ask you to join them, you would continue to do what you thought was right. What do you think would be right?

A. The thing I am doing now, as nearly as I am able to do it.

Q. Mr. Summers, if you were in a position where one of those friends of yours in your presence was being attacked by a superior foe, either in the army or out of the army, wouldn't you exert any efforts or any force I should say at all to protect him?

A. I would be willing to take the blows that were meant for them.

Q. Well, would you expect the person who was attacking him to accept your invitation to come over and hit you instead of him?

A. It would not be a case of that. It would be a case of my putting myself between the two.

Q. Yes. But that is the only effort that you would make to protect him?

A. Isn't that enough?

Q. That is not answering my question.

A. It would be as much as I would be—it would be as much as I could do.

Q. Well, it might be within your power to take the gun away from the man that was to be fired at your friend?

A. Disarming would be practical. Disarming him would be practical.

Q. And that would be using some force, wouldn't it?

A. It would be using restraint—not destruction.

Q. It would be using force, wouldn't it?

A. Yes, some.

Q. And if in the struggle to get the gun or to protect the friend, if you finally reached the point where it was the lives of the two of you, you and your friend, or the foe, you would willingly see both your life and your friend's life sacrificed rather than take the life of the foe? Would you willingly see both your life and your friend's life sacrificed or would you take the life of the foe?

A. I am willing to sacrifice my own life.

Q. And your friend's life too rather than to take the life of the foe?

A. Yes. But what has that to do with practicing law?

Mr. Vail: You are here to answer questions. Not to ask them.

Mr. Garman: Well, let us talk about law a little bit.

[fol. 13] Q. In the practice of law it sometimes becomes necessary to use force, doesn't it?

A. That is a police force—not military force.

Q. What is the difference between them?

A. One is bent on restraining people and prevention, and the other is bent upon destruction. One is bent on re-

straining violence, saving people who have committed crime and not to kill them off.

Q. Sometimes in the enforcement of the law, a mob attacks a jail, doesn't it?

A. Yes.

Q. Now, call it police power or military power, whatever you will, it is the duty of the jailer to protect the prisoners, isn't it?

A. Yes, it is.

Q. Isn't it his duty to protect them even though he must injure some of the people who are bent on the attack?

A. Yes. He has assumed that duty.

Q. That is a part of our system, isn't it?

A. A part of our feeling, yes.

Q. A part of our system of law, isn't it?

A. Yes.

Q. Now, that is the system of law, that you wish and are willing to take an oath to support, isn't it?

A. Yes.

Q. And you recognize the fact that sometimes it is incumbent upon us in the administration of that law to use force and sometimes to take life? Don't you know that? And as a citizen of this country that you can be called upon to assume police power, even involuntarily, under certain conditions?

[fol. 14] Q. A. Yes, sir.

Q. And isn't it a part of our system that you should do so?

A. Yes, sir. It does not necessarily mean to kill a man.

Q. It might.

A. I would go as far as I could, but when it came to killing a man, I could not do it.

Q. You would let the men rush the jail and take the prisoner out and hang him rather than do it?

A. They would have to hang me first.

Q. It is not necessary to kill you. The man is in jail.

A. It would be as the old saying is, "over my dead body".

Q. He ties you, walks past you, takes the keys and takes the prisoner out and hangs him. You would go Scott Free?

A. Yes.

Q. Well, that is so obvious, Mr. Summers.

A. But it would be a case of keeping myself in a position where they could not do it. It would be a case of my own eye; it would be a case of throwing the keys away or whatever is necessary. Of course, then, there are spiritual

forces. Again love. Some of the missionaries in China have proved them against the Japanese. They have been able to stand for every violence and fighting back there.

Q. You have heard those stories?

A. Yes, I have.

Q. You have not been present under those conditions?

A. No. Have you ever been present in a mob?

Q. No, I have not. (Whereupon Mr. Vail left the room to answer a long distance telephone call) Let's wait until Mr. Vail comes back.

[fol. 15] Mr. Vail: I was sorry to interrupt. That was a long distance call. I thought I would take it.

Mr. Garman:

Q. Mr. Summers, you say you were classified as a conscientious objector by the Draft Board, which conducted no hearing in the matter?

A. Yes, sir.

Q. They accepted your own statement as a conscientious objector?

A. Yes, sir.

Q. Now, what physical defect have you that would prevent you from being called to Camp?

A. A hernia.

Q. Have you considered having the hernia corrected?

A. I have considered it, but where is the money and the time?

Q. Well, now you were educated at a state institution, were you not?

A. Yes, sir.

Q. Where the cost of your education was to a considerable extent paid out of public funds?

A. Yes, sir. And my Dad paid taxes too.

Q. Yes, and as a employee of the N. Y. A. you received public assistance?

A. Yes, sir.

Q. For which you worked?

A. Yes, sir.

Q. Now, you did not feel that you were asking too much of your state to educate you, did you?

A. No, sir.

Q. Would you feel it was asking too much of your state [fol. 16] to defray the cost of a hernia operation in order

that you might carry out such duties as might fall to your lot under the present conditions?

A. I would be willing to, but they have never offered it.

Q. You have asked them?

A. No. I have not asked them.

Q. Now, you are employed at the present time, are you not?

A. Yes, sir.

Q. And where are you employed?

A. The University of Toledo, teaching law.

Q. How long have you been teaching there?

A. Since September.

Q. Are you a new—are you an addition to the faculty that was already constituted?

A. No, sir. There were men that went to Washington to get jobs, and they needed another man.

Q. Where is the man whom you replaced?

A. He is in Washington. I do not know just exactly what Department he is in there. He is Dix Noel. As nearly as I am able to figure out, that is who I replaced. They had four full time men last year and they have only three full time men this year.

Q. So far as you know now you will not be called for any kind of duty whatever unless your physical defect is corrected!

A. So far as I know, they will call me in spite of it. I expect to be called, but I do not know.

Q. If that were corrected, you would be called shortly?

A. Probably as soon as it healed.

Q. Now, you have referred to other methods of force [fol. 17] which might be used in combating a foe. What methods do you have in mind?

A. The method of non-violent resistance.

Q. Would you tell us what they might be?

A. Where that is, as when there is something that you oppose, whether it be force or otherwise, to refuse to co-operate, to hold yourself open to having it corrected, assuming the blame for which you are responsible, refusing to hate those, regardless of the fact that they are using force against you, and in that refusing to hate, make them realize that there is really no hatred between you.

Q. You have no idea that those methods might be effective?

A. I believe they will. I am willing to bet my life on it.

Q. Now, I wonder, because your life is not in danger.

A. Well, insofar as I am able to tell, I am willing to bet my life on it.

Q. What are some of those methods that might be used under present conditions?

A. Have you read anything about Ghandi?

Q. I am asking you. I want you to tell me. I will tell you in advance I have read considerable.

A. It is a case.

Q. I just want you tell me what you have in mind to use under present conditions?

A. Under present conditions, if the people of this country desired it, they could.

Q. No, no: Tell me what you suggest under present conditions?

A. Under present conditions I would suggest I do as I am doing, standing for these principles, even though the rest of the people are not willing to go along; and various [fol. 18] people are not willing to go along, they know no other way, they must fight.

Q. You are not answering my question at all. I am talking not about you individually but as a nation, how might we find out what methods you would suggest of non-violent resistance?

A. Assuming all could believe as I do?

Q. You can assume anything you want to.

A. If all of the country believed as I do, it would be a case of not relying in any respect on the military; it would be to make the food of the country available to the hungry, bear the responsibility for the creation of this War, willing to assume that responsibility and correct the conditions as they are. I mean correct the conditions to be what you think they ought to be.

Q. Well, to what extent does that amount to resistance?

A. It is resistance, the most violent kind of resistance.

Q. Resistance to whom?

A. Any forces that are against us.

Q. It is resistance to our own Government.

A. No. It is not a resistance to our own Government, because I am assuming that is the policy of the Government. You said to make such assumption I like.

Q. Yes, sir.

A. That is what I am assuming, that that is the policy of our Government. In that way, we could correct it.

Q. Then, that would entail our using no force of any kind against a foe?

A. The using of spiritual force.

Q. Prayer?

A. Yes.

Q. And what else?

[fol. 19] A. Love, good will, friendship, regardless of how men treated you.

Q. Even though that might disintegrate the whole nation to the last man?

A. If it does, it would still be right, but I do not believe it would.

Q. That is your own opinion?

A. That is my own opinion.

Q. It is not the teaching of your Church?

Q. Well, there are a lot in my Church that believe the same way as I do.

Q. There is no teaching in your Church of that nature?

A. My Church has no teaching on the subject. It has taken both sides. It is the teaching by a Methodist like Ernest Termani.

Q. Does the Methodist Church have a creed?

A. Yes.

Q. It is not a part of that creed, is it?

A. Oh, there are many things that the Methodist Church stands for that are not in the creed.

Q. How are we to determine what they stand for as a unit?

A. The things they adopt in their conferences every four years as their policy.

Q. Now, have they ever adopted a policy of non-resistance?

A. They have said it was a valid method for their Church.

Q. They have not adopted it as a policy of their Church?

A. No, and have not adopted War as a policy either.

Q. Would you advocate the use of such non-specific methods against the foe as a blockade?

A. Not a food blockade or armed blockade.

[fol. 20] Q. Would you feed their hungry?

A. I would feed their people.

Q. You would feed their people even though they might be in the Army?

A. Yes.

Q. We know today that the German people are badly underfed.

A. Not as badly as the rest of Europe.

Q. Just answer my question, Mr. Summers. We will get along much faster I really imagine.

A. I can already feel like you are trying to force me into a hole without a full statement of what the conditions are.

Q. No. You have an opportunity to state everything you want to state, but we would like to know.

A. Very well. I will save it until then. I just wanted to be sure my position is clear, that I am not put in a hole.

Q. The point is, you would feed the German people, including the German Army?

A. Yes, sir.

Q. The Japanese as well?

A. Yes, sir.

Q. And your theory being that if you fed them they might relent and lay down their arms and be Brothers?

A. Eventually, yes. That with other things I mean. Feeding alone is not enough.

Q. You realize too that the legal system that is now in force in Germany is different from our own?

A. Yes. And it is very bad.

Q. But you would submit, if necessary, to that legal system?

A. Not submit. I would not use violence.

Q. You would not use violence to protect the legal system you have?

[fol. 21] A. No, sir.

Q. You do not feel that the Common Law under which we live is worth defending by force?

A. It is worth defending by force, but the force will not work.

Q. That is it won't work over a long period of time?

A. It is worth everything we can give.

Q. It won't work you think over a long period of time?

A. That is right.

Q. We might defeat our foes and preserve our system, but that would not be worth while?

A. Not if it meant losing—it would not be worth while because it would mean losing them eventually or injuring them again eventually.

Q. Well, are you sure of that?

A. Well, I am willing to bet my life on it.

Q. In what way are you willing to gamble your life on it?

A. I am willing to follow the course I have stated, regardless of the consequences.

Q. Well, so far as you can see into the future, there is no danger then of your losing your life in that contest, is there?

A. I do not see any.

Q. So that you are wagering your life when it is not taking very much of a chance?

A. It is a question very much of a chance when I have to go through this kind of an ordeal.

Q. I hope you will not feel this is an ordeal, but it is an unusual situation.

A. I have only found one case to parallel it.

[fol. 22] Q. No doubt. What case was that?

A. In re Sullivan in Montana. Only he was a religious objector. He just said, if they want me to fight, they will have to come after me. I will not wear a uniform.

Q. Have you read any other cases?

A. I have read all cases that might give me a lead, but I never found any cases parallel with that. They found in favor of that lawyer. He did not lose his Bar privilege.

Q. Well, at the basis of your contention is Brotherly love, absolute unselfishness, negation, and unreasoned right?

A. Yes, sir.

Q. Unreasoned privileges?

A. Yes, sir.

Q. Don't you think it is a little unselfish—strike that. Don't you think it is a little selfish, under present conditions, to take the work of those who are defending the system that makes that work available?

A. What do you mean?

~~Q. Just read him the question.~~

(Question read.)

A. You mean do I think it is selfish for me to refuse to fight when there are others fighting in order to preserve this system?

Q. No. That is not the question.

A. I mean—

Q. A very substantial number of the lawyers you know, lawyers and law teachers, are today actively fighting,

They fight to protect and to preserve our way of life?

A. Yes.

Q. And our institutions in this country?

[fol. 23] A. Yes.

Q. They have sacrificed their jobs and their property to do that. Now, is it selfish or not for a man who refuses to fight to step into the place of one of those who has gone to fight?

A. I am getting two hundred dollars a month. I am saving one hundred dollars of it in order to pay my expenses when I go to Camp. I do not think that is being too selfish.

Q. It is a little bit selfish, isn't it?

A. I have no other choice than to go to Camp, and then I would be a burden on those behind me. I have no other source except to support myself.

Q. To what extent do you support yourself?

A. Entirely, thirty-five dollars a month from his immediate family; friends, the Methodist Church, as it happens now, the ministers of the Quakers, they have to support them with at least thirty-five dollars a month. I do not feel like pushing myself as a burden off on them, just to make it look like I am being doubly consistent. It would be rather a zero sort of thing to do.

Q. Let me ask you what you have—or have you read considerably on the question of pacifism and non-resistance?

A. A lot, yes.

Q. What have you read?

A. The best book is Gregg's "Power of Non-violence", and Gregory's "New Testament Basis of Pacifism". The Fellowship Magazines themselves, put out by the Fellowship Reconciliation. And lots of articles in the Christian Century about it. Kirby Page's books. I do not know how many of them there are of his. Well, just particularly [fol. 24] about everything I could get my hands on, except one thing I wanted to read that I have not been able to get my hands on, Shidharami's "World without Violence". I believe that is how it is titled.

Q. Who is he?

A. He is one of Ghandi's followers.

Q. He is in India now?

A. He was travelling around this country the last I heard.

Q. Have you ever heard him speak?

A. I have not heard him speak.

Q. Now, all of the people who wrote those books advocate non-violence?

A. Yes.

Q. That has been the thing?

A. Yes, sir.

Q. That is Kirby Page's thesis, is it?

A. Yes.

Q. Is it his thesis today?

A. I have not heard him speak for almost a year. I could not say. I have not heard that he changed his position.

Q. If you had heard he changed his position, would that make any difference to you?

A. No, sir.

Q. If all of those people whom you referred to, all of those authors changed their position, in the light of present conditions, would that make any difference to you?

A. Well, if all of them changed, I would certainly look into my position, but the result, I could not say.

Q. You would not change your position for any other reason?

A. I would read them. I would not go hopeless but I [fol. 25] would look and see. I mean I have not re-examined them wholesale in the last two years. Whenever an issue came up, I looked at it and re-examined it as much as I could, and whether I was right or wrong on that point.

Q. Now, can you decide those things definitely if you are right or wrong on points such as these?

A. No. No, I can't decide definitely.

Q. But you are simply willing to resolve the doubt in favor of non-violence?

A. No! It is not resolving my doubt in anybody's favor. It is just simply it overcomes all of the doubts. It is not uncertain. It may be wrong but it is the best I see now.

I might tell you that six months before I took this position, I thought that War was thoroughly justified. I did not even know there would be a defensive war. I guess I read too much of the New Testament. I came to the conclusion, whether I like it or not, my previous conclusions were *were* wrong.

Q. Well, in six months you have changed your mind?

A. Yes. It might have been seven.

Q. What caused you to change it in that period?

A. Before that time I had not gone to Church regularly. I was in school but I had not gone to Church regularly. I started to going to Church regularly, and that was one thing, because it made me to think. In the secoind place, I went home in the Summer time. I had lots of time to think. I read the Four Gospels I guess a little too much. I just was compelled to come to that conclusion. I had no other choice.

Q. Well, isn't that a pretty short time and a pretty free consultation with the Gospels to change your mind on such a [fol. 26] matter as this?

A. I have been thinking about it ever since.

Q. Well, but you changed your mind?

A. Yes.

Q. In that short period?

A. Yes. But I think I consulted the authorities adequately. I think the New Testament is enough.

Q. Well, what did you read from the New Testament that conyinced you?

A. "Love your Enemies", "Do Good to those that Hate You", "Even thought your enemy strike you on your right cheek, turn to him your left cheek also", about the cloak, and he who would compel you to walk a mile, go with him too, and then the man that died on the cross because He refused to use force.

Q. Is there anything in the New Testament that caused you any doubt?

A. Oh, there were a few things. It is Jesus using cords on cattle and driving them out of the Temple. Oh, I mean they bothered me but it was totally overcome by the way to live, and then I read and investigated and found most of the authorities agreed, in the first place, that the incident is not particularly reliable report; in the second place, he only used them on his cattle; in the third place, it was a perfect example of non-violence because he as one person stood against the whole lot and they obeyed.

Q. He did use some kind of force to drive the money changers out of the Temple?

A. He drove the cattle out.

Q. Didn't he drive the money changers out of the Temple? [fol. 27] A. He drove the cattle out. That is as far as he would go.

Q. What did the bible say? Did it say he drove the cattle out?

A. I can not quote the bible exactly, but the real translation was, the best translation is the Greek, from which it came, says he only used it on cattle. In the second place, it only appears in the Gospel of John. It does not appear in any of the other three, and it is a question as to whether he really did it that way at all. It says, he cast them out, but under the translation of the Greek, that means he sent them forth.

Q. Are you a Greek student?

A. No, sir. But I have friends who are.

Q. You had to take their word for it?

A. Yes, sir. Pretty much.

Q. Are they agreed on it?

A. As nearly as I can find out.

Q. And any St. James' version is not correct?

A. It is not infallible, no.

Q. Then, you have ignored, of course, the Old Testament entirely?

A. No, sir. Not entirely. I am afraid if I followed the Professors I knew, I would be in a mess.

Q. In other words, you would accept those things in the Old Testament which support your position, and the things that do not support your position, you reject? That is true, isn't it?

A. They were all true, but the Old Testament is a history of a people learning to know their God. It is a history of their growth, a knowledge of what was right and wrong, and Jesus was the fulfillment of that.

[fol. 28] Q. And He was the fulfillment of that struggle that these people went through, even sometimes resulting in the engagement in violent War?

A. Yes, but when He came he said, not to use—not to do that way. He said, you have heard that old time saying, an eye for an eye and a tooth for a tooth, but I say a man who is angry with his Brother is in danger of Hell fire; in other words, he more than added it up. He added something.

Q. I wanted to get your views on it. You do have to reject all of the teachings—all of the reports and teachings in the Old Testament which would support violence, don't you?

A. To reject them in the sense I say it is not the best life a man could have. It is what those men believed to be right at that time.

Mr. Vail: Well, I have a number of questions I would like to ask Mr. Summers. Shall we proceed now? It is almost noon.

Mr. Belatti: I would very much like to get the one forty-five train or bus, if I could.

Mr. Vail: Let us proceed then.

Examination.

By Mr. Vail:

Q. You are teaching law now, Mr. Summers?

A. Yes, sir.

Q. And have been this term?

A. Yes, sir.

Q. Are you older or younger than your Brother?

A. Younger.

Q. How much?

[fol. 29] A. Five years.

Q. Well, is he at home most of the time when you are up to the last two or three years?

A. No. He really left home in 1931, when he started to school, and then he was only home occasionally since then.

Q. So that you have not seen much of him in the last ten years?

A. No. Not a great deal.

Q. Now, do you have any other Brothers or Sisters?

A. One Sister.

Q. And is she married?

A. Yes, sir.

Q. Is her husband in the Service?

A. No, sir. He is a farmer. They have one child, and he has a weak heart.

Q. Now, if it were suggested by the Board, the Draft Board, that since you are a conscientious objector, you go into the Hospital Service and not carry any arms but help carry the wounded men off the field, help care for them, would you be willing to do that?

A. As long as I was not subject to the military authorities. The Quakers are doing that kind of work, are trying to, if the Government would let them. I would be perfectly willing to do it under them.

Q. What is your objection to doing it under the military authorities, if you do not have to fight?

A. I think the whole military system is wrong. I would prefer not to have a part in it.

Q. You would be unwilling then, under military authority, where you did not have to bear arms, to help carry the [fol. 30] wounded off and serve in the hospitals?

A. I am afraid so, but it is not because I do not feel for those people.

Q. Why would it be? You do not want to do it?

A. Because I do not want to do it under military authority.

Q. What has that to do with it?

A. Because I am a part of the whole machine which is aimed at the destruction of other people.

Q. You are willing to refuse to save life because somebody may connect you with somebody that takes life?

A. There are other ways of saving.

Q. Answer my question.

A. I do not mean foregoing the saving of life, but I do not want to be a part of something that is the cause of destruction.

Q. Did you and your Brother have any fights?

A. When we were kids we fought a lot and my Sister too, but we have not recently. It might interest you to know that last year he wrote me and said he hoped one thing, that this War would never come between us, because he said, you go your way and I will have to go mine, but we will meet on the other side of the world some day.

Q. Do you expect to get married, Mr. Summers?

A. I hope to if I could ever find a woman.

Q. Suppose you were married and walked down the street and some bully came and started to beat up on your wife, what would you do?

A. Take the punishment myself.

Q. He jumped on her, what would you do? Interfere?

A. Put myself between them.

Q. Is that all you would do?

[fol. 31] A. I would do that. That is the most I could do.

Q. That is the most you could do?

A. I could absorb all of the punishment myself and that is enough.

Q. You would let your wife take what violence came to her when you could prevent it?

A. She could get away while he was beating me up.

Q. Suppose you had a child and a wife and some fellow came around your house with a revolver and threatened to shoot. What would you do? Just stand in the way and be shot?

A. That would be one way.

Q. Would you do that?

A. Certainly.

Q. What you do anything else?

A. If I had a good chance I would throw a robe or gunny sack over his head and take the gun away from him.

Q. Suppose you did not have a chance to do that?

A. I suppose that is the most I could do.

Q. If you had a brick in your hand, do you think you would throw it at him?

A. I do not think Jesus would want me to do that.

Q. I did not ask you about Jesus. I am talking about you.

A. I would try not to do it.

Q. You would let him shoot your wife rather than throw a brick to save your wife and your child. You would let him shoot your wife and your child rather than throw the brick?

A. Yes, because I believe that is what Jesus asks for me to do.

Q. Do you know you would be an officer of the Court if [fol. 32] you were admitted to the Bar?

A. Yes, sir.

Q. Suppose you were appointed to defend someone who is indicted for murder?

A. I would defend him.

Q. And his defense was self-defense, even though he was a man—

A. I would have no duty but to say that is what the law provided. I could defend him as the law provides.

Q. You would do that even though you did not believe it?

A. Certainly.

Q. What did you study in College before you went to law school?

A. Forty hours of accountancy, twenty-three hours, economics, twenty-three hours of political science, and then miscellaneous things that they required.

Q. Did you have very much history?

A. Three hours.

Q. What did you study?

A. English history.

Q. A general survey?

A. No. It was from the beginning of England down to Queen Elizabeth, I guess.

Q. Did you have any philosophy at all?

A. No, sir. Of course in logic, but it is not real philosophy.

Q. How long have you been reading these writers that you have spoken of awhile ago who advocate non-resistance and pacifism?

A. Nearly four and one-half years.

Q. Four and one-half years?

[fol. 33] A. Yes, sir.

Q. You started when you were eighteen or nineteen years old?

A. A junior.

Q. Eighteen or nineteen years old?

A. Yes.

Q. Did you read anything on the other side?

A. I read a plenty of things on the other side.

Q. What for instance?

A. Bennett has a book—John Bennett. I have forgotten what the name of it is at the present time. He is on the other side. I have read parts of Folly in New York City. What is the name? He wrote Moral Man—Immoral Society. Reinhold Neber. Moral Man—Immoral Society.

Q. He is a Communist?

A. No. He is a minister.

Q. Didn't you know he was a Communist?

A. I never heard of it—not Neber.

Q. Did you read any of his books on Russia?

A. No, sir. I have not.

Q. Do you know whether he wrote about Russia or not?

A. I do not know of anything if he did.

Q. Do you believe in Hell?

A. Can a man help but believe in what is going on?

Q. I asked you what your belief was?

A. I can't say whether I believe in Hell or not. All I now is that people that do the wrong thing will suffer. I am not sure whether they suffer here or later. I am pretty sure a lot of them suffer here, but later, I do not know.

Q. Are you an evolutionist?

[fol. 34] A. I believe that men have evolved from something, but I do not know what—whether they came from

monkey's or not. I do not know. I do not know whether they started before maybe anybody else. I do not know.

Q. Have you ever read any books of any evolutionists?

A. I studied Darwin and Huxley. I had it in literature.

Q. When was that?

A. When I was a sophomore in College.

Q. You have not read anything more in evolution since?

A. Nothing special, no.

Q. Have you ever read anything about other religions than the Christian religions?

A. Yes, sir. I have.

Q. About what other religions?

A. Confucianism, which is not really a religion in one sense. Hinduism, Mohammedanism, and Hebrew.

Q. To what extent have you read on the other religions?

A. I think I learned the most by the fact I have known and talked to other students who believed in them. I might add the Japanese Shinto.

Q. Do you believe implicitly in the New Testament?

A. Insofar as I am able to understand it.

Q. Did you ever take the Four Gospels and read them as a newspaperman would and see what their variances and differences were?

A. I know there are a lot of variances and differences. I never read the four of them side by side probably but I have read all four of them. I know there are differences.

Q. Have you read the Four Gospels of any other version than St. James?

[fol. 35] A. I have read Goodspeed and Moffat and some of Weymouth.

Q. Is it your belief that any of the Gospels were written at the time that Christ lived?

A. From the best I know, the first one was not written until sixty years after He died. I think that was Mark.

Q. How about the others?

A. Luke was written later and Matthew was written still later, and John was not written I think until almost two hundred years afterwards.

Q. Is it the belief or doctrine in the New Testament that you rely on, or the decrees that you get from the Bible as a whole that is the foundation for your belief in non-resistance?

A. It is the picture of Him as a whole and the things that he said too, to show what he meant by the way of life. I can not separate the two really.

Q. Do you believe in the survival of the fittest?

A. Why yes. The fittest are not those who are physically fit, but those that are spiritually fit. They never die.

Q. Where did you get that idea?

A. Jesus taught that too.

Q. He does not distinguish between people, does he? He says all survive whether they are fit or unfit, doesn't he?

A. I thought he said somewhere he did not give his Kingdom of Heaven? To the other he did not give the Kingdom of Heaven.

Q. Did he give it to the Thieves on the Cross and so forth?

A. Yes; but he forgave him.

Q. Is there any direction except to believe in the survival?

A. I think you have to do more than that.

Q. He did not say so, did he?

[fol. 36] A. I thought he said, not he who said "Lord, Lord," but he who did the work of my Father.

Q. On the Cross he said, believe in me and you will be saved, did he not?

A. There was but one thief that was penitent, but I do not think to the other thief he made it.

Q. He said it the same to one as to the other?

A. One thief was penitent and he survived but the other did not.

Q. What happens to the one that does not survive spiritually in your belief?

A. I do not know, but I believe if he is good enough he will give them another chance. I do know how. But good men survive through the works they do, and bad men survive through the works they do here. Al Capone, he survived through the barrier that he spread in Chicago, and on the other hand another man survives by the lives he saved.

Q. What do you mean? The lives of other men who physically survive when the body is gone?

A. I do not believe anybody can physically survive. I believe when the body is gone, I am inclined to believe that is the end of it, of the body.

Q. What do you mean by the survival of the fittest?

A. The people who are surviving, the people that do good, the good lives after them, and the people who do not do

good, the evil lives after them. It is very much a case of which way you want to survive. I am sure of that much, but more than that I am not sure of. There may be a place where people go and float around with harps, and walk the [fol. 37] golden streets, I do not know, but I am pretty sure of the other.

Q. What in your reading or experience has ever indicated to you, out of past history, of which we have some six or eight thousand years, that non-resistance causes the survival of the human race?

A. The greatest example of non-resistance and non-violence in existence was Christ, and he is the man that survived longest.

Q. He did?

A. Isn't he still alive in thousands of Churches? That is what I mean by survival. He lives in the hearts of men.

Q. You are thinking about reputation. A lot of other people have survived.

A. No. Reputation does not necessarily mean you influence other people, but Christ in two thousand years has influenced millions in the sense he still works, he still lives.

Q. Is that what you mean by the survival of the fittest?

A. At least that much, yes.

Q. Satan survives too, doesn't he?

A. Yes.

Q. How do you explain his survival?

A. Man just has not enough guts to throw him overboard.

Q. You told Mr. Belatti awhile ago, while you had not preached any at Urbana or Champaign, you had done so elsewhere?

A. Yes, sir.

Q. Under what circumstances?

A. Well, at Champaign, the Wesley Foundation sent out some extension teams, out to churches in the state. I preached one at Kansas, Illinois, and one—I do not remember the other little town, right close by there. I preached [fol. 38] one in Peoria. I have preached at home, in my own home church, the day war was declared. Two Summers I spent with a group in New York. It was inter-religion and inter-faith and inter-racial, and we were sent out to churches every week to preach. I suppose in the two Summers I spoke fifteen or twenty sermons in different religions.

Q. What were the subjects of the sermons?

A. "World Brotherhood", "World Minded", "The Meaning of Nations", "The Purpose of Christ in the Lives of Young People". Those kind of things. Some of them on non-violence.

Q. Did you in each sermon get around to the subject of non-violence and pacifism?

A. Not in all of them.

Q. In most of them?

A. No; I do not think the most of them. I only remember of preaching one that was specifically on the subject.

Q. Mr. Summers, is there any question in your mind as to whether you were cut out for a preacher or music teacher rather than a lawyer?

A. Sometimes I very seriously consider going into the ministry. The fact is I considered it through most of two years of my schooling.

Q. Why did you change your mind?

A. Because I felt there were enough religious people in the churches—I mean in the ministry. I think there is a lot of work to be done in the law.

Q. Do you expect to use the law as a vehicle for the extension of your ideas?

A. That is not my purpose in law, just as a means of getting at these things, but when the situation has come up in [fol. 39] law that my principles guide me, I will follow them, whether it is in relation to non-violence or not. There is a lot of religion other than non-violence. I think there is work that needs to be done.—A lot of prison reform that needs to be done. I think it is unchristian the kind of prisons we have. I think there are a lot of other things that perhaps the law has a place to do.

I think the law has a place to see to it that every man has a chance to eat and a chance to live equally. I think the law has a place where people can go and get justice done for themselves without paying too much, for the bulk of the people that are too poor. I have been particularly interested in the legal clinics that have been set up in different places. In fact I do not know too much about it. It is in the right direction.

I think in law if I did not do anything else, I might get a few more people to settle things without going to court, just to get together as friends, because my experience has been when people—I mean what little experience I have had—when people start suing each other in Court, they are

mad at each other and do not understand each other and have not made an honest attempt to get together, and I think that, from my point of view, I have something to offer in that, because I believe in settling it peacefully and settling it on terms of friendship and understanding rather than going through court. If there is no other way to obtain justice, then that is what the courts are for, but it seems to me that the lawyers main job or one of the main jobs is to try to get people to work things out peacefully and nice. That antagonism must necessarily grow out of a lawsuit, [fol. 40] you know it better than I do, but people feel mad-er after a lawsuit than they did before the lawsuit. Lawsuits do not bring love and brotherliness—they just create antagonism!

Q. Would it be your effort to eliminate all litigation possible if you were admitted to the Bar?

A. All that it is possible to without sacrificing the client's interest. A man can not do that. I mean he is entrusted with that. Of course, a man can not play two sides of the fence. He can not act as attorney for both parties. I know that. And yet if there is an opportunity to get both lawyers together and the parties together and sit down and talk it over and settle it peacefully, he should do that.

Q. Suppose you had a client that asked you to represent him to become his advocate, and his ideas of what he was entitled to and yours did not correspond. He wanted to go ahead in a claim within his legal right. What would you do?

A. If it was a criminal case, of course, I would be bound to take it and get as much justice as I could, I mean, to protect all of his rights that I could. If it was a civil suit, and if the conflict were not too great, I think I would just tell him that my own personal feelings just made it impossible for me to do a fair job to represent his claims. I think perhaps that is about as good as I could do.

Q. Do you expect, if you are admitted, to practise law or to teach law?

A. I am not sure which I want to do all my life. I expect to make a choice between the two. I mean I did not throw the teaching out because I did not know for sure whether it was better to teach or to practice.

Mr. Vail: I do not think I want to ask him anything else. [fol. 41] Do you, Mr. Belatti?

Mr. Belatti: I did have two questions I had noted, but they have already been pretty well covered:

Examination.

By Mr. Belatti:

Q. Going back to the one suggestion you made rather frequently, that you would bet your life on the—that your course of conduct would eventually be successful. That offer to bet your life really means nothing unless the rest of the nation will go along with you in the same non-resist attitude?

A. No. It means more than that. It means if the nation insisted too much upon my doing those things, I suppose I would just have to take the consequences from my own people.

Q. But it would not be your life? No thought of that with this nation?

A. If they started doing it in this country like they did in Germany, that is what I mean.

Q. That is what you mean. You did not mean you would be willing to stake your life on the success of non-resistance as against our foes?

A. Yes. I am willing to stake my life.

Q. All right. Is that what you mean by you bet your life?

A. Yes, sir.

Q. You can't bet your life unless another nation goes along with you on non-resistance?

A. No.

Q. They are defending you?

[fol. 42] A. I know that. I am willing to bet everything I have got.

Q. Then, another thing, about the distinction you make about the compulsion and without force in connection with the administration of justice, aren't you just as connected with the law, in their law enforcement agency, by being a member of the Bar as you would be connected with the military forces if you were in the hospital service, even under military direction?

A. Just as much. I mean the relationship is just the same, but the difference it seems to me lies in this: That the object of the police force is to restrain and reclaim people, and that is not the object of the military force.

Q: Now, are you right in that? That is what I am getting at. You do admit the analogy between your position and the two different things however?

A. Yes.

Q. Then, couldn't the effort of the military authorities be used to restrain our enemies, even if they have to kill them?

A. There is certainly no effort to reclaim them.

Q. Well, that is—

A. I mean to try to make them decent people again, and it seems to me another distinction, when you are dealing with criminals, you are dealing with somebody as an individual. At least to a certain extent they have been responsible for where they are, but there are a lot of boys that are fighting for the Germans, the Italians and the Japanese that do not want to fight any more than we do. They do not want to kill us any more than we want to kill them. [fol. 43] They do it because they think they have to.

Q. But the police power may be required to kill people in order to restrain them?

A. I do not know whether it is done or not.

Q. It is done all of the time?

A. It is done but insofar as it does, it fails to live up to its highest ideals.

Q. And yet you would not object to being connected with the administration of justice where that is frequently done?

A. I am not connected quite in the same way they are.

Mr. Belatti: All right. That is all I have.

Examination.

By Mr. Graman:

Q. Mr. Summers, do you believe that it is necessary to have organized Government?

A. Yes, sir.

Q. But you do not think that Government should support itself by force?

A. Yes, sir. I mean I do not think they should by force. I agree with your statement.

Q. And any organized government in the face of a foe should offer no resistance?

A. They should offer resistance but not military, violent resistance.

Q. Well, would it be all right for the individuals themselves to offer resistance, leaving out any thought of the military at all?

A. Not any violent resistance.

Q. If an invasion occurred at any time within the con- [fol. 44] fines of a territory controlled by an organized Government, the people would be wrong to resist that invasion, either in an organized way or individually?

A. They would do wrong to resist it with force. They would be bound to resist it, but it would be non-violent resistance.

Q. By prayer and by good will?

A. By prayer and by good will and by absorbing the punishment. There is no choice there.

Q. Yes, and that would apply to the people on the borders of our country; for instance, down in Texas—if a marauder came across the boundaries of Texas, evil minded people, bound on stealing the horses and cattle of the folks that live along your border, it would be wrong, in your opinion, for those farmers to resist by force any effort on the part of the marauders to steal their property?

A. Yes, sir, but we would all be under an obligation to put ourselves in the service to help in the non-violent resistance.

Mr. Vail: You do not believe it would work in Texas?

The Witness: I believe it would.

Mr. Garman:

Q. Who is the minister over to the Methodist Church at Urbana?

A. Paul Burt.

Q. Have you talked to him about these questions?

A. Yes, sir.

Q. Is he sympathetic with your point of view?

A. Yes, sir.

Q. And is your conviction his conviction?

A. We agree but we arrive at it independent of each [fol. 45] other pretty much.

Q. And he is a pacifist?

A. Yes, sir.

Q. And he believes in non-resistance?

A. Yes, sir.

Q. Now, have you counselled with other people on this subject?

A. Yes, sir.

Q. With whom have you counselled?

A. Well, a number of students I have been around with. Individually?

Q. I am speaking of mature people? Older people?

A. You mean I have asked their opinion, or I have expressed my opinion to?

Q. No. Have you talked with them or counselled with them before making up your own mind or to get help in making up your own mind?

A. Yes. Do you want some names?

Q. Yes.

A. Roy Hendricks is one.

Q. Now, who is he?

A. He was student assistant there at Wesley.

Q. How old was he?

A. He was about twenty-six.

Q. No. I am talking about not children.

A. Oh.

Q. But people of mature years?

A. Harold Fey. He is Editor of the Christian Century.

Q. Now, is he a pacifist? I mean, does he believe in non-resistance?

A. Yes.

Q. That is his present belief?

[fol. 46] A. Unless he has changed his mind.

Q. When did you talk to him about it?

A. A year ago in June.

Q. That was before War came to this country?

A. Yes.

Q. Now, you have not talked with him since?

A. No, sir.

Q. Who else have you talked with?

A. Kirby Page.

Q. When did you talk with him?

A. Let's see! Once in 1938 and once at least in 1939—June, 1939, and once in the Spring of 1941.

Q. Not since War was declared in this country?

A. No, sir.

Q. Have you talked with any mature people about this question since War was declared in this country?

A. Doctor Burt, of course. He is about fifty.

Q. Yes, I know Doctor Burt.

A. Now, let me see? That was since last December 7? I do not just definitely remember anybody.

Q. Now, those are the only people, Mr. Summers, that you have talked with about the question of non-resistance?

A. There are dozens of people I have heard speeches from, but I have never—I mean express the position. I did not ask them a question; that is, I did not talk to them for their advice. There is another person—H. A. Musty, who is, I guess, still at the head of the Fellowship of Reconciliation. I talked to him back in the Fall of 1939.

Q. Who was he? What is the Council of Fellowship of Reconciliation?

[fol. 47] A. It is the Christian Pacifist Organization.

Q. And where is he located?

A. I am not sure. Their office is in New York. He travels around the country mostly. And then, of course, DeWitt Baldwin. He was the one who was in charge of this group I was with in New York. He is Student Secretary of the Methodist Board of Missions.

Q. What group were you with in New York?

A. It was called the Lyle Fellowship. It was inter-religious, inter-racial and inter-faith, but mainly supported by the Methodist Board of Missions.

Q. And it believed in non-resistance?

A. Not the whole group. The group was split up half and half.

Q. Now, have you talked with any people—have you counselled with any people who had not shared your views for the purpose of obtaining their advice?

A. Well, I have counselled—I talked to the Colonel—Colonel Brown of the University R. O. T. C. He was the head of the R. O. T. C. That was the Fall of 1938. I talked to him two or three times.

Q. What was the occasion of your talking with him. Were you in the R. O. T. C.?

A. Not that year. I was out in that year.

Q. You did have two years in the R. O. T. C.?

A. Yes, sir. I had two years of basic military.

Q. You did not feel that way at that time?

A. No, sir. I changed my mind two years after I was out of the military.

[fol. 48] Q. If you had felt that way then you would not have participated in the R. O. T. C.?

A. That is right.

Q. What was the occasion of your talking to Colonel Brown? Did you seek him at that time to talk to him on that subject?

A. No. Not exactly that. I wanted to ask him what it was—I wanted to get his viewpoint of what the values of the R. O. T. C. are; what the purposes are, what they expect to do with it, how much they were doing with it, figures on the cost and those things; and he gave me material on all of that.

Q. You did not talk with him about any personal problem you had or any difficulty?

A. Well, he knew my personal position. That was in the Fall of 1938. The first time I talked to him was along in December.

Q. I understood you changed your view?

A. That was in the Summer of 1938 but I never came to the conclusion until about September, 1938.

Q. But you were not seeking help from him? You had an argument with him? Isn't that right?

A. Well, maybe, yes.

Q. Now, Mr. Summers, you really have not sought out older people?

A. My Dad talked to me a lot about it, and he certainly disagrees with me all right.

Q. Of course, our Fathers have very little influence on us and sometimes we like to disagree with our Fathers.

A. And another man I talked a lot with was Henry Wilson. He is the General Secretary of the Y. M. C. A. We were working on inter-religious things, and, of course, some of those things came up and we talked quite a lot about it. [fol. 49] And John Bennett.

Q. And your talking with those people was largely in justification of your position, was it not?

A. Well, we were both listening together, I think, fairly-mindedly. Of course, the truth was I made up my own mind when nobody was around and I talked to the people, but when I made up my mind, I did it independently of either side.

Q. But you, of course, feel you have talked with enough people and you have adequate information on which to base your conclusion?

A. Yes.

Q. And that nothing would change it?

A: That is right.

Q. And it is your opinion that an oath to support the Constitution of the United States would not oblige you to use any force at any time?

A. Military violent force.

Q. Or police force or individual physical force?

A. Yes.

Q. I can not understand your distinction between military force and other force?

A. In the Military you kill innocent people and in the other case you get the criminal.

Q. Suppose all of the people in an opposing group—aren't these people that came across the border to steal the stock of the Texas farmer criminals? Aren't they?

A. Those are individuals, and the thing to use is organized police system for capturing them and taking care of them, but it is not War.

Q. It is force, isn't it? How do you distinguish, Mr. [fol. 50] Summers, between the group of people who came across the border to steal the cattle of the Texas farmer and the people who raided Pearl Harbor?

A. I know some Japanese boys that are just one hundred per cent. people.

Q. Yes. We all know it. How do you distinguish between the people who raided the Mexican border and the people who raided Pearl Harbor?

A. The fact that some are criminals and others are not.

Q. What makes them criminals?

A. Because they do things that are pretty much of their own volition, and the Japanese did not do it. The men that did the work did it because they thought they had to, for the same reason that a lot of boys are in the Army now, not because they believe in it but because they have to.

Q. They are in the same position you are? They did have the same right you have, didn't they?

A. Yes, sir.

Q. They did not have to go into the Army any more than you have to go into the Army?

A. No. But they feel it is expected of them and they did not see any other way.

Q. Now, his choice to go into the Army you think makes him a criminal?

A. No, no, a thousand times no. These people that are fighting are not criminals.

Q. He is going to kill people?

A. He is helpless in it.

Q. No, he is not. You just stated he has some freedom to choose.

[fol. 51] A. He has to, regardless. You are twisting my words. I do not think boys in the Army are criminals. They are a decent bunch of fellows, doing what they think is right. That is what I am trying to do. They are decent guys and they do not want to kill people either.

Q. Now, let's get down to brass tacks: They kill people?

A. But we are all the ones that send them to kill them.

Q. We all send them, you and all of us?

A. Yes.

Q. So as a part of organized government we send them out to kill?

A. Yes, and we are all guilty.

Q. And we are going to reap the benefit of their victory, aren't we?

A. If there are benefits.

Q. And we will label them as transgressors against the Will of God, but we will accept the benefits of their transgressions, won't we?

A. I am trying—What Jesus said about the lawyers in his day. He says you strain but to swell humiliation. But these boys can't—you see they are decent—they are doing the best thing they know and they are doing it because they see it for them. It is the only thing they can do. I do not think God is going to be very hard on them.

Q. But we are the ones calling them up?

A. I am not calling them. I am not calling them criminals.

Q. They are transgressing the Will of God, aren't they?

A. Yes, but they just do not know it.

Q. And for that they will be benefitted?

A. They are like the Thief on the Cross.

[fol. 52] Q. One thief asked them?

A. Don't think they have not asked. I know some of them.

Q. Well, you do not know all of them, Mr. Summers?

A. No, but I know a lot of them. I get letters from them.

Mr. Vail: I would like to ask a couple of questions more, if I may. Are you about through, Horace?

Mr. Garman: Yes.

Mr. Vail: Excuse me.

Examination.

By Mr. Vail:

Q. Do the University of Toledo authorities, for whom you are teaching, know you are a conscientious objector?

A. Yes, sir. They knew it before they hired me.

Q. In order to obtain a teaching position with that University was it necessary that you be admitted to the practice of the law?

A. No, sir.

Q. You could continue to teach without being admitted to the practice so far as the school where you are was concerned?

A. Yes, sir. So far as I know.—They have not said anything.

Q. Suppose, Mr. Summers, that the law, your being exempted as a conscientious objector, were repealed by Congress, so that there were not exceptions made, what would you do?

A. The first situation is the situation that has been presented to me. I do not know for sure what my reactions would be, because I had a certain kind of reaction to the First Draft that I did not understand, that I did not expect, so I do not know what I would do in that case, but [fol. 53] so far as I see now, I simply could only say, I am willing to do constructive work, but I would not be a part of the Army. I cannot help what the consequences were any more than if the Congress passed a law that every man was compelled to kill his neighbor's dog. I would not obey that law. And if the Government insisted, I would take the consequences. I would rather trust in the sermon on the Mount—I will stop with that.

Mr. Vail: I think that is all.

Examination.

By Mr. Garman:

Q. Mr. Summers, not only that you would stick to the Sermon on the Mount, but your own interpretation of it?

A. I would much rather do what I think is right than do what I am pretty certain is wrong.

Q. Yes. You interpret the scriptures for yourself?

A. With the help of others, yes. I mean, I am not averse to stating—

Q. Let me ask you this question: Would you consent to being a prosecuting attorney?

A. Yes.

Q. And you would ask for the death penalty in a murder case?

A. No, sir.

Q. In the event that the statute authorized it?

A. No, sir. The statute does not require it.

Q. Would you garnishee a man's wages and take from him and his family the sustenance upon which they depend for life?

A. If that is the only way of their getting bread to eat, [fol. 54] I would not take it. I would rather pay it myself.

Q. Would you evict a man from his home for failure to pay rent?

A. If he had not paid rent, there is nothing much else you can do.

Q. Well, would you evict him?

A. Yes. But if there were no houses available—if there was no place for them to go, I would not set him out in the street to freeze and starve. They would just have to go to another lawyer to do those things.

Q. You would not consider that that was any obligation that you had assumed toward a client?

A. I would have to assume the obligation by just simply telling the client my conscience would not let me do it; they would have to find some other lawyer who did not feel the same way. That would be far better than taking the case when I thought it was wrong. I am afraid if I started to do something that was wrong, I would not be as good a chap as I should. It would not be fair to my client.

Q. Aren't these notions you express here rather difficult for a man to hold in practicing law?

A. It is just a question to hold and live. In practicing law it is not harder than fighting for anything else as I see it.

Q. Would you think there are fewer lawyers and therefore you could serve better as a minister?

A. I might say there are a smaller proportion of the lawyers who believe the way I do but want to practice law because they want to try to get the right results.

Q. How many lawyers outside of me and Mr. Belatti [fol. 55] here do you know?

A. Well, not so very many. A dozen or fifteen. Of course, I do not know them today.

Q. Have you attended many trials?

A. No.

Q. Have you talked with many lawyers about the practice of the law and their methods of handling lawsuits and the litigation of their clients?

A. I have talked some. Not too much.

Q. Is it your impression from those you talked to that the legal profession as a whole is a monetized outfit?

A. No, sir.

Q. And that they thrive on litigation and trouble?

A. No, sir. I think the greatest proportion of them are doing the very best they can. I have known some lawyers that are just about as fine a people as I have ever known.

Q. Do you think that most of the professions do not share the idea and ideals you have expressed here for the Bar?

A. I would not want to say they did not share them, but I would want to say they were not particularly motivated in practicing law by trying to achieve those ends. Most of them—most lawyers never do anything wrong. I mean they do the right thing as they see it, but there is a difference between doing the right thing as you see it when it comes to you and attempting to building something new.

Q. Mr. Summers, do you dance?

A. No, sir. I do folk dances—not social dances.

Q. Not social dancing?

A. No, sir.

Q. Did you take part in many social activities about the [fol. 56] University?

A. I took a part in a lot of them at the Wesley Foundation. There are a lot of social activities there.

Q. Do they dance?

A. They play folk dances.

Q. Did they have social dancing at the Wesley Foundation?

A. No, sir. They do not permit it.

Q. Do you believe it is immoral?

A. No, sir. But there are some that do think it is immoral.

Q. There are some that do supposedly righteous things immorally?

A. Yes.

Q. Did you have many dates with the girls while you were at the University?

A. I did not have any the first three years for the reason I did not have any money and had less time. After that, I had some in the last couple of years, quite a number.

Q. Do you bowl?

A. I have, but I did not do so good.

Q. Did you ever play baseball?

A. Yes. I used to. I do not get to any more. I played soft ball mostly.

Q. Did you play football any?

A. I played it until I got big enough and my Dad was afraid I was going to get hurt. I did not play it any more.

Q. What was your recreation while in school?

A. Boxing, handball, tennis, swimming, running, tumbling, those kind of things, and folk games.

[fol. 57] Q. You did not participate in any group activities?

A. No, because I just could not arrange the time and get into it.

Q. Don't you like group activities?

A. Yes. I would rather play football than anything else. I am not sure but—

Q. Are you a pretty good boxer?

A. I can hold my own with anybody who is not over thirty pounds heavier.

Q. But you would not use your fistie ability to preserve order or decorum or to prevent any harm or evil that might befall an innocent person?

A. No.

Q. Of course, I guess since these convictions have congealed in your mind no one has ever struck you?

A. Let me see! I am pretty sure there were one or two times, if I can recall them back. I know since that time many people have threatened to, but I have not offered to fight until they walked off.

Q. But if they had fought you or struck you?

A. I would have taken it or walked out as quickly as I could.

Q. Would you have turned your cheek?

A. Yes.

Q. Would you have run?

A. I would have stayed out of his way until he cooled off, if I thought it was more than just a flare of temper,

I would not run, but if it was a flare of temper, I would go off.
 [fol. 58] He is generally sorry enough. There is no use making him more so.

Q. If he wanted to beat you up, you would let him beat you up to his heart's content?

A. Yes.

Q. Mr. Summers, I do not think you would.

A. Maybe I would not, but if I did otherwise I would feel remorseful afterwards.

Q. Well, isn't it perfectly possible for us to use force righteously and feel sorry we have to do those things and ask for forgivéness for every blow that we dealt?

A. Well, there are a lot of good men that think so, and there are a lot of people in even churches, there are a lot of Methodists that feel that way about it, but I do not. I feel that God is going to look a little skeptical when we stab a man with our bayonet and then say, "Lord, forgive us".

Q. Even though that man was about to stab you?

A. I am afraid so. Jesus said, put up your sword. That is what he said. We never try to defend. Put up your sword, else they will take you.

Q. He was trying to impress upon him a great moral teaching, wasn't he?

A. Yes. That I will do the best I can.

Q. And he was in a position to do that?

A. Yes. And maybe I am.

Examination.

By Mr. Vail:

Q. Did you ever take a drink?

A. Well, along about eleven years ago, my Brother made [fol. 59], some white grape wine that my Dad did not know about at that time. We had a couple of glasses before the wine spoiled. Outside of that, I do not know anything about it.

Q. You are a prohibitionist by practice?

A. Yes, sir.

Q. Do you smoke?

A. No, sir.

Q. You do not engage in social dancing yourself?

A. No, sir. Not because I do not believe in it, but because I do not function that way. I could not coordinate and gave it up.

Q. Do you ever play poker?

A. No.

Q. Ever try?

A. I played for months while a freshman in college, the school year, but since then I do not believe I have ever played.

Q. Do you play bridge?

A. No. Never took the trouble to learn.

Q. Did you ever play any card game?

A. Used to play Rhum. Our family used to play Euchre, Rook, and so forth.

Q. Did you play checkers?

A. Checkers and chess.

Q. How are you on Chest?

A. It depends on how good the other fellow is. I am not so hot.

Mr. Vail: Any questions, Mr. Belatti?

Mr. Belatti: No, I have not.

Mr. Vail: I would suggest that you step to the outer [fol. 60] office, Mr. Summers.

Mr. Summers: Would I be permitted to say a word or two in my own defense?

Mr. Vail: Why I have not any objection to him saying anything. Have you?

Mr. Belatti: If you have not covered the situation in answering the questions,

Mr. Vail: Make any statement you wish.

STATEMENT

Mr. Summers: In the first place, I want to say this: I realize what my position is from a religious standpoint. I realize that a lot of people differ on things, have a difference of opinion. I would not any more want to ask them to do my bidding when I believed otherwise than for them to ask me to do otherwise. That is the first thing.

My second position is that my teachings give me no other alternative. For the first three centuries every Christian was a pacifist, and not until they tried to get the blessing of their own empire—

Mr. Garman: Pardon me if I ask a question: You may be very scholarly, but we want to know if you know anything about it?

Mr. Summers: The writers of that day say that is one of the sensitive points of Christianity. You could not bear the

Cross of Jesus and bear the sword of State. You either followed the Cross or the State, and that was their own empire. So they refused military service for three long years. Augustine was the first one that let them down.

I have made my choice regardless of the consequences. I do not know what the consequences will be.

I would like to say this in the second place, that I was [fol. 61] frankly amazed to run into the difficulties, and the more I think, the more I am amazed in the Illinois Constitution that says a man is not required to do military duty in time of peace.

In the second place, the position in the Sullivan case is not distinguishable from my position because of religious views. That is with me absolutely. They say you were required to take an oath. I am willing to take an oath for what I think it means. There were people in one camp in New York.

Mr. Vail: I would suggest that you make a statement of your position and not argue as to what other people think.

Mr. Summers: All right. I mean I think it has a bearing. There are five lawyers in that Camp. There is a member of the New Hampshire Bar also who is a conscientious objector that is director of that Camp. It seems to me strange. I do not know. I was hired to teach law. They knew I was a conscientious objector. The Dean and President of the College, and the President is all out for War, and was a member of the Draft Board; thought it was all irrelevant. I turned down a scholarship and that scholarship was to prepare to teach law or for Government Service. They knew I was a conscientious objector. A fifteen hundred dollar scholarship. Dean Harno, I talked to him about it, when it first came up, and his remark was he did not see how that would make any difficulty.

Mr. Garman: What was the first difficulty?

Mr. Summers: I was not passed by the Committee. Mr. Belatti said he would have to consult with other members of the committee. I told Dean Harno that, and asked him [fol. 62], what I should do. He said, he did not see that that should cause any difficulty. He wrote me after I went to Toledo and said he did not think there should be any trouble. There are those things and the one case I have been able to find on a conscientious objector's admission to the bar, and he was a religious objector, was not a conscientious objector at all, and the testimony in the case

tends to show enough about his refusal, his love of patriotism, and the fact he did not think War was just or something—it was not clear, but he was admitted to the Supreme Court. Of course, the two cases in which they were to uphold and defend the Constitution have been repealed. They have stated that a conscientious objector is not entitled to become a citizen, and the dissents on those cases, Holmes on one of them, and he was the man probably that put the skids under the report to the Walt doctrine of Court as a defense in this Country. He fought in the Civil War, and yet he wrote the dissent, and yet he said he could see nothing dangerous—anything dangerous about such a position, and he said he never supposed that we would regret the fact that we had let the Quakers in the country and wished them good.

There they had Hughes in that second case who said he thought it strange a man should be refused admission to this country on account of religious beliefs because he believed in the sermon on the Mount a little more than Jesus did. Those are the cases.

Another case in the Civil War, all of the parties being Rebels in the Civil War. Statutes were passed saying that they should not be allowed to practice law. They had participated in the Rebellion. A blanket pardon was given, [fol. 63] which it seems to me the equivalent to what the law is on a conscientious objector, and they held that the Court could not refuse to give a man admission to the Bar because he had participated in the Rebellion. I submit that the participation in the Rebellion is more than the refusal to fight; at least I have not raised my hand against the country.

And those are the things that I think would have a bearing in this case. I suppose that is enough. But with my life I will stick to my position because it is right. I really have not any choice.

Mr. Vail: Suppose you have a seat out there. We may want to ask you something else.

Whereupon the hearing was adjourned, with the understanding that the testimony would be submitted to the fourth member of the Committee, who was absent, and then a report made.

[fol. 64] UNITED STATES OF AMERICA

STATE OF ILLINOIS,

Supreme Court, ss:

I, Earle Benjamin Searey, Clerk of the Supreme Court of the State of Illinois, and keeper of the records and Seal thereof, do hereby certify the foregoing to be a photostatic copy of a letter of Justice June C. Smith addressed to Mr. Francis Heisler, Attorney at Law, a stipulation between Mr. Heisler and the Attorney General that a supplemental record be prepared by the Clerk of the Supreme Court, and the original transcript of proceedings held before the Committee on Character and Fitness, submitted to this office on March 8, 1945, by the office of the Attorney General, in a certain cause entitled in this Court In re: Clyde Wilson Summers, N. R. #462.

In witness whereof, I have hereunto subscribed my name and affixed the Seal of said court this 12th day of March 1945:

Earle Benjamin Searey, Clerk, Supreme Court of the State of Illinois.

[fol. 65] IN THE SUPREME COURT OF THE UNITED STATES

[Title omitted]

STIPULATION—Filed March 16, 1945

It is hereby stipulated by and between the petitioner in the above entitled cause, by his counsel, and the Chief Justice and Associate Justices of the Supreme Court of Illinois; by George F. Barrett, Attorney General of the State of Illinois; their counsel, that a supplemental transcript of record may be printed, without order of this court, or, in the alternative, that an order of this court may be entered instanter or at any time that shall serve the convenience of the court authorizing the printing of a supplemental transcript of record in the above entitled cause, which supplemental record has been prepared by the stipulation of the parties in the Supreme Court of Illinois and which supplemental record is transmitted with this stipulation.

[fol. C] Such supplemental record contains the following papers and no others:

1. A photostat of a letter from June C. Smith to Francis Heisler dated March 22, 1944, announcing that the court declines to further consider its former action in this matter.
2. A stipulation relative to the preparation of such supplemental record.
3. The original transcript of the proceedings before the Committee of Character and Fitness in the petitioner's matter.
4. The certificate of the Clerk of the Supreme Court of Illinois.

Julian Cornell & Francis Heisler, by F. H., Attorney for Petitioner. George F. Barrett, Attorney General of the State of Illinois, Attorney for Respondents.

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